



# महाराष्ट्र शासन राजपत्र

## भाग सहा

वर्ष २ अंक ८]

गुरुवार ते बुधवार, मे ८-१४, २०१४/वैशाख १८-२४, शके १९३६

[पृष्ठे २३, किंमत : रुपये १४.००

### प्राधिकृत प्रकाशन

संसदेचे अधिनियम व राष्ट्रपतींनी प्रख्यापित केलेले अध्यादेश

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### LAW AND JUDICIARY DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 28th April 2014.

No. 530/B.—The following Ordinances promulgated by the President are hereby republished for general information :—

## MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

*New Delhi, the 4th March 2014/Phalguna 13, 1935 (Saka)*

## THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT ORDINANCE, 2014

(No. 1 of 2014)

*Promulgated by the President in the Sixty-fifth Year of the Republic of India.**An Ordinance to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.*

WHEREAS the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2013, to give effect to the aforesaid objective, was introduced on the 12th December, 2013 in the House of the People ;

AND WHEREAS the said Bill could not be taken up for consideration and passing in the House of the People ;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

**1. Short title and commencement.**—(1) This Ordinance may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance, 2014.

(2) It shall come into force at once.

**2. Amendment of long title.**—In the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989) (hereinafter referred to as the principal Act), in the long title, for the words “Special Courts”, the words “Special Courts and the Exclusive Special Courts” shall be substituted.

**3. Amendment of section 2.**—In section 2 of the principal Act, in sub-section (1),—

(i) after clause (b), the following clauses shall be inserted, namely :—

“(bb) “dependent” means the spouse, children, parents, brother and sister of the victim, who are dependent wholly or mainly on such victim for his support and maintenance ;

(bc) “economic boycott” means—

(i) a refusal to deal with, work for hire or do business with other person ; or

(ii) to deny opportunities including access to services or contractual opportunities for rendering service for consideration ; or

(iii) to refuse to do anything on the terms on which things would be commonly done in the ordinary course of business ; or

(iv) to abstain from the professional or business relations that one would maintain with other person ;

(bd) “Exclusive Special Court” means the Exclusive Special Court established under sub-section (1) of section 14 exclusively to try the offences under this Ordinance ;

(be) “forest rights” shall have the meaning assigned to it in sub-section (1) of section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) ;

(bf) “manual scavenger” shall have the meaning assigned to it in clause (g) of sub-section (1) of section 2 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (25 of 2013) ;

(bg) “public servant” means a public servant as defined under section 21 of the Indian Penal Code (45 of 1860), as well as any other person deemed to be a public servant under any other law for the time being in force and includes any person acting in his official capacity under the Central Government or the State Government, as the case may be ;’ ;

(ii) after clause (e), the following clauses shall be inserted, namely :—

‘(ea) “Schedule” means the Schedule appended to this Ordinance ;

(eb) “social boycott” means a refusal to permit a person to render to other person or receive from him any customary service or to abstain from social relations that one would maintain with other person or to isolate him from others ;

(ec) “victim” means any individual who falls within the definition of the ‘Scheduled Caste and Scheduled Tribe’ under clause (c) of sub-section (1) of section 2, and who has suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of any offence under this Ordinance and includes his relatives, legal guardian and legal heirs ;

(ed) “witness” means any person who is acquainted with the facts and circumstances, or is in possession of any information or has knowledge necessary for the purpose of investigation, inquiry or trial of any crime involving an offence under this Ordinance, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence ;’ ;

(iii) for clause (f), the following clause shall be substituted, namely :—

“(f) the words and expressions used but not defined in this Ordinance and defined in the Indian Penal Code (45 of 1860), the Indian Evidence Act, 1872 (18 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), as the case may be, shall be deemed to have the meanings respectively assigned to them in those enactments.”.

#### 4. Amendment of section 3.—In section 3 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

‘(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a) puts any inedible or obnoxious substance into the mouth of a member of a Scheduled Caste or a Scheduled Tribe or forces such member to drink or eat such inedible or obnoxious substance ;

(b) dumps excreta, sewage, carcasses or any other obnoxious substance in premises, or at the entrance of the premises, occupied by a member of a Scheduled Caste or a Scheduled Tribe ;

(c) with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe, dumps excreta, waste matter, carcasses or any other obnoxious substance in his neighborhood ;

(d) garlands with footwear or parades naked or semi-naked a member of a Scheduled Caste or a Scheduled Tribe ;

(e) forcibly commits on a member of a Scheduled Caste or a Scheduled Tribe any act, such as removing clothes from the person, forcible tonsuring of head, removing moustaches, painting face or body or any other similar act, which is derogatory to human dignity ;

(f) wrongfully occupies or cultivates any land, owned by, or in the possession of or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe, or gets such land transferred ;

(g) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, including forest rights, over any land or premises or water or irrigation facilities or destroys the crops or takes away the produce therefrom.

*Explanation.*—For the purposes of clause (f) and this clause, the expression “wrongfully” includes—

(A) against the person’s will ;

(B) without the person’s consent ;

(C) with the person’s consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested in fear of death or of hurt ;  
or

(D) fabricating records of such land ;

(h) makes a member of a Scheduled Caste or a Scheduled Tribe to do “begar” or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government ;

(i) compels a member of a Scheduled Caste or a Scheduled Tribe to dispose or carry human or animal carcasses, or to dig graves ;

(j) makes a member of a Scheduled Caste or a Scheduled Tribe to do manual scavenging or employs or permits the employment of such member for such purpose ;

(k) performs, or promotes dedicating a Scheduled Caste or a Scheduled Tribe woman to a deity, idol, object of worship, temple, or other religious institution as a devadasi or any other similar practice or permits aforementioned acts ;

(l) forces or intimidates or prevents a member of a Scheduled Caste or a Scheduled Tribe—

(A) not to vote or to vote for a particular candidate or to vote in a manner other than that provided by law ;

(B) not to file a nomination as a candidate or to withdraw such nomination ;  
or

(C) not to propose or second the nomination of a member of a Scheduled Caste or a Scheduled Tribe as a candidate in any election ;

(m) forces or intimidates or obstructs a member of a Scheduled Caste or a Scheduled Tribe, who is a member or a Chairperson or a holder of any other office of a panchayat under Part IX of the Constitution or a municipality under Part IX A of the Constitution, from performing their normal duties and functions ;

(n) after the poll, causes hurt or grievous hurt or assault or imposes or threatens to impose social or economic boycott upon a member of a Scheduled Caste or a Scheduled Tribe or prevents from availing benefits of any public service which is due to him ;

(o) commits any offence under this Ordinance against a member of a Scheduled Caste or a Scheduled Tribe for having voted or not having voted for a particular candidate, or for having voted in a manner provided by law ;

(p) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe ;

(q) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe ;

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view ;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view ;

(t) destroys, damages or defiles any object generally known to be held sacred or in high esteem by members of the Scheduled Castes or the Scheduled Tribes.

*Explanation.*—For the purposes of this clause, the expression "object" means and includes statue, photograph and portrait ;

(u) by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes ;

(v) by words either written or Spoken or by any other means disrespects any late person held in high esteem by members of the Scheduled Castes or the Scheduled Tribes ;

(w) (i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent:

(ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe.

*Explanation.*—For the purposes of sub-clause (i), the expression "consent" means an unequivocal voluntary agreement when the person by words, gestures, or any form of non-verbal communication, communicates willingness to participate in the specific act :

Provided that a woman belonging to a Scheduled Caste or a Scheduled Tribe who does not offer physical resistance to any act of a sexual nature is not by reason only of that fact, is to be regarded as consenting to the sexual activity :

Provided further that a woman's sexual history, including with the offender shall not imply consent or mitigate the offence ;

(x) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used ;

(y) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any other section thereof have a right to use or access to ;

(z) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence:

Provided that nothing contained in this clause shall apply to any action taken in discharge of a public duty ;

(za) obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to—

(A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any *bathing ghat*, any public conveyance, any road, or passage ;

(B) mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession, or mounting a horse or any other vehicle during wedding processions ;

(C) entering any place of worship which is open to the public or other persons professing the same religion or taking part in, or taking out, any religious, social or cultural processions including jattras ;

(D) entering any educational institution, hospital, dispensary, primary health centre, shop or place of public entertainment or any other public place ; or using any utensils or articles meant for public use in any place open to the public ; or

(E) practicing any profession or the carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to ;

(zb) causes physical harm or mental agony of a member of a Scheduled Caste or a Scheduled Tribe on the allegation of practicing witchcraft or being a witch ; or

(zc) imposes or threatens a social or economic boycott of any person or a family or a group belonging to a Scheduled Caste or a Scheduled Tribe,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.’ ;

(ii) in sub-section (2),—

(a) in clause (v), for the words “on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member”, the words “knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member” shall be substituted ;

(b) after clause (v), the following clause shall be inserted, namely :—

“(va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine.”.

**5. Substitution of new section for section 4.**—For section 4 of the principal Act, the following section shall be substituted, namely :—

“4. *Punishment of neglect of duties.*—(1) Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Ordinance and the rules made thereunder, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

(2) The duties of public servant referred to in sub-section (1) shall include—

- (a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant ;
- (b) to register a complaint or a First Information Report under this Ordinance and other relevant provisions and to register it under appropriate sections of this Ordinance ;
- (c) to furnish a copy of the information so recorded forthwith to the informant ;
- (d) to record the statement of the victims or witnesses ;
- (e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing ;
- (f) to correctly prepare, frame and translate any document or electronic record ;
- (g) to perform any other duty specified in this Ordinance or the rules made thereunder :

Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.

(3) The cognizance in respect of any dereliction of duty referred to in sub-section (2) by a public servant shall be taken by the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.”.

**6. Amendment of section 8.**—In section 8 of the principal Act,—

(i) in clause (a), for the words “ any financial assistance to a person accused of ” the words “ any financial assistance in relation to the offences committed by a person accused of ” shall be substituted ;

(ii) after clause (b), the following clause shall be inserted, namely : —

“(c) The accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.”.

**7. Amendment of section 10.**—In section 10 of the principal Act, in sub-section (1),—

(a) after the words and figures “article 244 of the Constitution”, the words, brackets and figures “or any area identified under the provisions of clause (vii) of sub-section (2) of section 21” shall be inserted ;

(b) for the words “two years”, the words “three years” shall be substituted.

**8. Substitution of new section for section 14.**—For section 14 of the principal Act, the following section shall be substituted, namely :—

“14. *Special Court and Exclusive Special Court.*—(1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the *Official Gazette*, establish an Exclusive Special Court for one or more Districts :

Provided that in Districts where less number of cases under this Ordinance is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the *Official Gazette*, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Ordinance :

Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Ordinance.

(2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Ordinance are disposed of within a period of two months, as far as possible.

(3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined,

unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing :

Provided that when the trial relates to an offence under this Ordinance, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet.”.

**9. Insertion of new section 14A.**—After section 14 of the principal Act, the following section shall be inserted, namely :—

“14A. *Appeals.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from :

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days :

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

**10. Substitution of new section for section 15.**—For section 15 of the principal Act, the following section shall be substituted, namely —

“15. *Special Public Prosecutor and Exclusive Public Prosecutor.*—(1) For every Special Court, the State Government shall, by notification in the *Official Gazette*, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

(2) For every Exclusive Special Court, the State Government shall, by notification in the *Official Gazette*, specify an Exclusive Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as an Exclusive Public Prosecutor for the purpose of conducting cases in that Court.”.

**11. Insertion of new Chapter IVA.**—After Chapter IV of the principal Act, the following Chapter shall be inserted, namely :—

#### “CHAPTER IVA

##### RIGHTS OF VICTIMS AND WITNESSES

15A. *Rights of victims and witnesses.*—(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.



(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Ordinance.

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Ordinance in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Ordinance shall provide to a victim, his dependent, informant or witnesses—

- (a) the complete protection to secure the ends of justice ;
- (b) the travelling and maintenance expenses during investigation, inquiry and trial ;
- and
- (c) the social-economic rehabilitation during investigation, inquiry and trial ;
- (d) relocation.

(7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including—

- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public ;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses ;
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

(9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.

(10) All proceedings relating to offences under this Ordinance shall be video recorded.

(11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as—

- (a) to provide a copy of the recorded First Information Report at free of cost ;
- (b) to provide immediate relief in cash or in kind to atrocity victims or their dependents ;
- (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses ;
- (d) to provide relief in respect of death or injury or damage to property ;
- (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims ;
- (f) to provide the maintenance expenses to the atrocity victims and their dependents ;
- (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report ;
- (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment ;
- (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost ;
- (j) to take necessary precautions at the time of medical examination ;
- (k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount ;
- (l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial ;
- (m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose ;
- (n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Ordinance and to provide the necessary assistance for the execution of the rights.

(12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates."

**12. Insertion of new Schedule.**—After section 23 of the principal Act, the following Schedule shall be inserted, namely :—

**“THE SCHEDULE**

[See section 3(2)(va)]

Section under the Indian Penal Code (1)	Name of offence and punishment (2)
120A	Definition of criminal conspiracy.
120B	Punishment of criminal conspiracy.
141	Unlawful assembly.
142	Being member of unlawful assembly.

(1)	(2)
143	Punishment for unlawful assembly.
144	Joining unlawful assembly armed with deadly weapon.
145	Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.
146	Rioting.
147	Punishment for rioting.
148	Rioting, armed with deadly weapon.
217	Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.
319	Hurt.
320	Grievous hurt.
323	Punishment for voluntarily causing hurt.
324	Voluntarily causing hurt by dangerous weapons or means.
325	Punishment for voluntarily causing grievous hurt.
326B	Voluntarily throwing or attempting to throw acid.
332	Voluntarily causing hurt to deter public servant from his duty.
341	Punishment for wrongful restraint.
354	Assault or criminal force to woman with intent to outrage her modesty.
354A	Sexual harassment and punishment for sexual harassment.
354B	Assault or use of criminal force to woman with intent to disrobe.
354C	Voyeurism.
354D	Stalking.
359	Kidnapping.
363	Punishment for kidnapping.
365	Kidnapping or abducting with intent secretly and wrongfully to confine person.
376B	Sexual intercourse by husband upon his wife during separation.
376C	Sexual intercourse by a person in authority.
447	Punishment for criminal trespass.
506	Punishment for criminal intimidation.
509	Word, gesture or act intended to insult the modesty of a woman.”.

PRANAB MUKHERJEE,  
President.

P. K. MALHOTRA,  
Secretary to the Government of India.

## MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

*New Delhi, the 28th March 2014/Chaitra 7, 1936 (Saka).*

## THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2014

(No. 2 of 2014)

*Promulgated by the President in the Sixty-fifth Year of the Republic of India.**An Ordinance further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.*

WHEREAS the Securities Laws (Amendment) Ordinance, 2013 further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996 was promulgated by the President on the 18th day of July, 2013 ;

AND WHEREAS the Securities Laws (Amendment) Bill, 2013 with certain modifications was introduced on the 12th day of August, 2013 in the House of the People to replace the said Ordinance ;

AND WHEREAS the said Bill was referred by the Speaker of the House of the People to the Department-related Parliamentary Standing Committee on Finance ;

AND WHEREAS the Bill could not be passed by the House of the People ;

AND WHEREAS to give continued effect to the provisions of the Securities Laws (Amendment) Ordinance, 2013, the Securities Laws (Amendment) Second Ordinance, 2013 was promulgated by the President on the 16th day of September, 2013 ;

AND WHEREAS the said Ordinance, 2013 ceased to operate on the 16th day of January, 2014 ;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to validate the actions taken under the said Ordinance so ceased to operate and to take further action to provide for the aforesaid matters ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

## CHAPTER I

## PRELIMINARY

1. *Short title and commencement.*—(1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2014.

(2) Save as otherwise provided, the provisions of this Ordinance, except clause (ii) of section 5, section 6, section 15, section 18 and section 23, shall be deemed to have come into force on the 18th day of July, 2013.

(3) The provisions of clause (ii) of section 5, section 6, section 15, section 18 and section 23 of this Ordinance shall come into force at once.

## CHAPTER II

## AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

2. *Amendment of section 11.*—In section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) (hereafter in this Chapter referred to as the principal Act),—

(i) in sub-section (2),—

(a) for clause (ia), the following clause shall be substituted, namely :—

“(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under

any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities ;” ;

(b) after clause (ia), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 6th day of March, 1998, namely :—

“(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard :

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government ;” ;

(ii) after sub-section (4), the following sub-section shall be inserted, namely :—

“(5) The amount disgorged, pursuant to a direction issued, under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 19 of the Depositories Act, 1996 (22 of 1996), as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Ordinance.”.

3. *Amendment of section 11AA.*—In section 11AA of the principal Act,—

(i) in sub-section (1),—

(a) after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (2A)” shall be inserted ;

(b) the following proviso shall be inserted, namely :—

“Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.” ;

(ii) in sub-section (2), in the opening portion, for the word “company”, the word “person” shall be substituted ;

(iii) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Ordinance.” ;

(iv) in sub-section (3),—

(a) after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (2A)” shall be inserted ;

(b) after clause (viii), the following clause shall be inserted, namely :—

“(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,”.

4. *Amendment of section 11B.*—In section 11B of the principal Act, the following Explanation shall be inserted, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”.

**5. Amendment of section 11C.**—In section 11C of the principal Act,—

(i) for sub-section (8), the following sub-section shall be substituted, namely :—

“(8) Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under sub-section (3) has been issued or might be issued,—

(a) has omitted or failed to provide the information or produce documents as required in the notice ; or

(b) may not provide the information or produce documents which shall be useful for, or relevant to, the investigation ; or

(c) may destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

then, the Chairman may, after being satisfied that it is necessary so to do, after recording the reasons thereof in writing, authorise the Investigating Authority or any other officer of the Board (the officer, so authorised being hereinafter referred to as the authorised officer), to—

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept ;

(ii) break open the lock of any door, box, locker, safe almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available ;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents ;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

*Explanation.*—For the purposes of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000) ;

(v) seize any such books of account or other documents found as a result of such search ;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom ;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).’;

(ii) after sub-section (8), the following sub-section shall be inserted, namely :—

“(8A) The authorised officer may requisition the services of any police officer or any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (8) and it shall be the duty of every such officer to comply with such requisition.”;

(iii) for sub-section (9), the following sub-section shall be substituted, namely :—

“(9) The Board may make regulations in relation to any search or seizure under this section ; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised Officer—

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available ;

(b) for ensuring safe custody of any books of account or other documents or assets seized.” ;

(iv) in sub-section (10), the words “and inform the Magistrate of such return” shall be omitted.

**6. Amendment of section 15-I.**—In section 15-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) The Board may call for and, examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify :

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter :

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier.”.

**7. Insertion of new section 15JB.**—After section 15JA of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely :—

“**15JB.** *Settlement of administrative and civil proceedings.*—(1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Ordinance.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Ordinance.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.”.

**8. Amendment of section 15T.**—In section 15T of the principal Act, sub-section (2) shall be omitted.

**9. Amendment of section 26.**—In section 26 of the principal Act, sub-section (2) shall be omitted.

**10. Insertion of new sections 26A, 26B, 26C, 26D and 26E.**—After section 26 of the principal Act, the following sections shall be inserted, namely :—

“**26A.** *Establishment of Special Courts.*—(1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

**26B.** *Offences triable by Special Courts.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

**26C. Appeal and revision.**—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

**26D. Application of Code to proceedings before Special Court.**—(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

**26E. Transitional provisions.**—Any offence committed under this Act which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) :

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 (2 of 1974) to transfer any case or class of cases taken cognizance by a Court of Session under this section.”.

**11. Insertion of new section 28A.**—After section 28 of the principal Act, the following section shall be inserted, namely :—

**‘28A. Recovery of amounts.**—(1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely :—

- (a) attachment and sale of the person’s movable property ;
- (b) attachment of the person’s bank accounts ;
- (c) attachment and sale of the person’s immovable property ;
- (d) arrest of the person and his detention in prison ;
- (e) appointing a receiver for the management of the person’s movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Ordinance instead of to income-tax under the Income-tax Act, 1961.

*Explanation 1.*—For the purposes of this sub-section, the person’s movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son’s wife or son’s minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid ; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son’s minor child is concerned, it shall, even after



the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Ordinance.

*Explanation 2.*—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

*Explanation 3.*—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961 (43 of 1961), shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression “Recovery Officer” means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.’.

**12. Amendment of section 30.**—In section 30 of the principal Act, in sub-section (2),—

(i) after clause (c), the following clauses shall be inserted, namely :—

“(ca) the utilisation of the amount credited under sub-section (5) of section 11 ;

(cb) the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA ;

(cc) the procedure to be followed by the authorised officer for search or seizure under sub-section (9) of section 11C ;” ;

(ii) after clause (d), the following clauses shall be inserted, namely :—

“(da) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB ;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.”.

**13. Insertion of new section 34A.**—After section 34 of the principal Act, the following section shall be inserted, namely :—

**“34A. Validation of certain acts.**—Any act or thing done or purporting to have been done under the principal Act, in respect of calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board and in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”.

### CHAPTER III

#### AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

**14. Amendment of section 12A.**—In section 12A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this Chapter referred to as ‘the principal Act’), the following *Explanation* shall be inserted, namely :—

*“Explanation.*—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction

or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”.

**15. Amendment of section 23-I.**—In section 23-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify :

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter :

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23L, whichever is earlier.”.

**16. Insertion of new section 23JA.**—After section 23 J of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely :—

**“23JA. Settlement of administrative and civil proceedings.**—(1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section.”.

**17. Insertion of new section 23JB.**—After section 23 JA of the principal Act as so inserted, the following section shall be inserted, namely :—

**‘23JB. Recovery of amounts.**—(1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely :—

- (a) attachment and sale of the person's movable property ;
- (b) attachment of the person's bank accounts ;
- (c) attachment and sale of the person's immovable property ;
- (d) arrest of the person and his detention in prison ;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Ordinance instead of to income-tax under the Income-tax Act, 1961.

*Explanation 1.*—For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid ; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Ordinance.

*Explanation 2.*—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

*Explanation 3.*—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961 (43 of 1961), shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.'

**18. Amendment of section 23L.**—In section 23L of the principal Act, in sub-section (1), after the word, figure and letter "section 4B", the words, brackets, figures and letter "or sub-section (3) of section 23-I" shall be inserted.

**19. Amendment of section 26.**—In section 26 of the principal Act, sub-section (2) shall be omitted.

**20. Insertion of new sections 26A, 26B, 26C, 26D and 26E.**—After section 26 of the principal Act, the following sections shall be inserted, namely :—

**"26A. Establishment of special Courts.**—(1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

**26B. Offences triable by special Courts.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

**26C. Appeal and Revision.**—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

**26D. Application of code to proceedings before Special Court.**—(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

**26E. Transitional provisions.**—Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) :

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.”.

**21. Insertion of new section 32.**—After section 31 of the principal Act, the following section shall be inserted, namely :—

**“32. Validation of certain acts.**—Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”.

## CHAPTER IV

### AMENDMENTS TO THE DEPOSITORIES ACT, 1996

**22. Amendment of section 19.**—In section 19 of the Depositories Act, 1996 (22 of 1996) (hereafter in this chapter referred to as the principal Act), the following Explanation shall be inserted, namely :—

**“Explanation.**—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”.

**23. Amendment of section 19H.**—In section 19H of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

**“(3)** The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify :

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter :

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23A, whichever is earlier.”.

**24. Insertion of new section 19-IA.**—After section 19-1 of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely :—

“19-IA. *Settlement of Administrative and Civil Proceedings.*—(1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19 or section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992(15 of 1992) shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer under this section.”.

**25. Insertion of new section 19-IB.**—After section 19-IA of the principal Act as so inserted, the following shall be inserted, namely :—

“19-IB. *Recovery of amounts.*—(1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely :—

(a) attachment and sale of the person's movable property ;

(b) attachment of the person's bank accounts ;

(c) attachment and sale of the person's immovable property ;

(d) arrest of the person and his detention in prison ;

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Ordinance instead of to income-tax under the Income-tax Act, 1961.

*Explanation 1.*—For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid ; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Ordinance.

*Explanation 2.*—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

*Explanation 3.*—Any reference to appeal in Chapter XVIIID and the Second Schedule to the Income-tax Act, 1961 (43 of 1961), shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23A of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression “Recovery Officer” means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.

**26.** *Amendment of section 22.*—In section 22 of the principal Act, sub-section (2) shall be omitted.

**27.** *Insertion of new section 22C, 22D, 22E, 22F and 22G.*—After section 22B of the principal Act, the following sections shall be inserted, namely :—

“22C. *Establishment of Special courts.*—(1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

22D. *Offences triable by Special Courts.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

22E. *Appeal and Revision.*—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

22F. *Application of Code to proceedings before Special Court.*—(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

22G. *Transitional provisions.*—Any offence committed under this Act which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried

by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) :

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.”.

**28. Amendment of section 23A.**—In section 23A of the principal Act, sub-section (2) shall be omitted.

**29. Insertion of new section 30A.**—After section 30 of the principal Act, the following section shall be inserted, namely :—

“30A. *Validation of certain acts.*—Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”.

**30. Validation and savings.**—Notwithstanding the fact that the Securities Laws (Amendment) Second Ordinance, 2013 (Ord. 9 of 2013) has ceased to operate, anything done or any action taken or purported to have been done or taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Ordinance as if such provisions had been in force at all material times.

PRANAB MUKHERJEE,  
President.

P. K. MALHOTRA,  
Secretary to the Government of India.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,  
Principal Secretary to Government,  
Law and Judiciary Department.